

86<sup>th</sup> Legislative Session – 2011

Committee: Senate State Affairs

Monday, March 07, 2011

P - Present  
E - Excused  
A - Absent

Roll Call

P Adelstein  
P Cutler  
P Frerichs  
P Garnos  
P Gray  
P Johnston  
P Tieszen  
P Olson (Russell), Vice-Chair  
P Rhoden, Chair

OTHERS PRESENT: See Original Minutes

The meeting was called to order by Senator Larry Rhoden, Chair.

MOTION: TO APPROVE THE MINUTES OF WEDNESDAY, MARCH 2, 2011

Moved by: Tieszen  
Second by: Johnston  
Action: Prevailed by voice vote.

HB 1110: revise the property tax levies for the general fund of a school district.

Presented by: Senator Russell Olson  
Senator Corey Brown  
Proponents: Dianna Miller, Large School Group  
Charlie Flowers, Midsize Schools  
Jason Dilges, Bureau of Finance and Management

MOTION: AMEND HB 1110

1110me

On the printed bill, delete everything after the enacting clause and insert:

" Section 1. There is hereby appropriated from the general fund the sum of one dollar (\$1), or so much thereof as may be necessary, to the Department of Education for the purpose of a one-time payment to school districts.

Section 2. After July 1, 2011, the secretary of the Department of Education shall distribute the funds, on a one-time basis, appropriated by section 1 of this Act to school districts based on fall enrollment as defined in subdivision 13-13-10.1(2A) at the same time that foundation program state aid is distributed to school districts pursuant to §§ 13-13-10.1 to 13-13-41, inclusive.

Section 3. The secretary of the Department of Education shall approve vouchers and the state auditor shall draw warrants to pay expenditures authorized by this Act."

Moved by: Johnston  
Second by: Adelstein  
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1110 AS AMENDED

Moved by: Johnston  
Second by: Garnos  
Action: Prevailed by roll call vote. (8-0-1-0)

Voting Yes: Adelstein, Frerichs, Garnos, Gray, Johnston, Tieszen, Olson (Russell), Rhoden

Excused: Cutler

MOTION: AMEND TITLE OF HB 1110

1110mtd

On page 1, line 1, of the printed bill, delete everything after "to" and insert "appropriate funding for the purpose of a one-time increase in state aid to education."

On page 1, delete line 2.

Moved by: Olson (Russell)  
Second by: Tieszen  
Action: Prevailed by voice vote.

HB 1243: revise the property tax levies for the general fund of a school district.

Presented by: Jason Dilges, Bureau of Finance and Management

MOTION: TO TABLE HB 1243

Moved by: Adelstein  
Second by: Johnston  
Action: Prevailed by roll call vote. (8-0-1-0)

Voting Yes: Adelstein, Frerichs, Garnos, Gray, Johnston, Tieszen, Olson (Russell), Rhoden

Excused: Cutler

HB 1079: repeal certain provisions related to the purchase of firearms by out-of-state residents.

Presented by: Senator Russell Olson  
Proponents: Darin Goens, National Rifle Association

MOTION: DO PASS HB 1079

Moved by: Olson (Russell)  
Second by: Garnos  
Action: Prevailed by roll call vote. (8-0-1-0)

Voting Yes: Adelstein, Frerichs, Garnos, Gray, Johnston, Tieszen, Olson (Russell), Rhoden

Excused: Cutler

MOTION: PLACE HB 1079 ON CONSENT CALENDAR

Moved by: Tieszen  
Second by: Johnston  
Action: Prevailed by voice vote.

HB 1233: limit liability from damages caused by certain aviation products.

MOTION: DO PASS HB 1233

Moved by: Adelstein

Second by: Frerichs

Action: Prevailed by roll call vote. (8-0-1-0)

Voting Yes: Adelstein, Frerichs, Garnos, Gray, Johnston, Tieszen, Olson (Russell), Rhoden

Excused: Cutler

HB 1108: revise certain provisions with regard to the rights of industrial and construction equipment dealers.

Presented by: Senator Corey Brown

Proponents: Lorin Pankratz, Diesel Machinery, Inc. (Handout: 1)  
Dan Healy, self, Diesel Machinery, Inc  
Mike Healy, self, Diesel Machinery, Inc.  
Pat Healy, Diesel, Machinery, Inc.  
Dean Wartenbee, self, Northern Truck Equipment  
Mike Sheehan, self, Sheehan Mack Sales & Equipment  
Myron Rau, SD Trucking Association  
Kitty Kinsman, Caterpillar, Inc.  
Opponents: Brett Koenecke, Assoc. Of Equipment Manufacturers  
David Owen, SD Chamber of Commerce & Industry  
Meghan Bucy, Sioux Corporation  
Barry Grossenburg, Grossenburg Equipment  
Kurt Moder, John Deer Company

MOTION: AMEND HB 1108

1108jd

On page 1, line 8 of the printed bill, after "future" insert ", if done unfairly, without due regard to the equities of the dealer and without just provocation".

On page 2, delete lines 7 to 16, inclusive, and insert:

" Section 4. That chapter 37-5 be amended by adding thereto a NEW SECTION to read as follows:

Any manufacturer or supplier of merchandise as defined in subdivision 37-5-12.2(3) that

authorizes a dealer of such merchandise to perform warranty work is obligated to provide that dealer with reasonable compensation for diagnostic work, as well as repair service, parts, and labor to the dealer. Time allowances for diagnostic and performance of warranty work and service shall be adequate for the work to be performed. The hourly labor rate paid to the dealer for warranty service may not be less than the rate charged by the dealer for like service to nonwarranty customers for nonwarranty service. Reimbursement for parts used in the performance of warranty repair may not be less than the lesser of the current retail rate customarily charged by the dealer for the part or the cost of the part plus thirty percent.

Section 5. That § 37-5-12.1 be amended to read as follows:

37-5-12.1. For the purposes of 37-5-1 to ~~37-5-12~~ 37-5-12.4, inclusive, the term, dealer, means any person, or the person's successor who, for commission or with intent to make a profit or gain, sells, exchanges, rents, leases with the option to purchase, or offers or attempts to negotiate a sale or exchange any merchandise as defined by this chapter, or who is engaged wholly or in part in the business of selling any such merchandise. The term does not include any person with an annual gross sales of one hundred million dollars or more of industrial and construction equipment, and any replacement parts and service related to the equipment, from any one manufacturer or supplier of such equipment.

Section 6. That subdivision (1) of § 37-5-13 be amended to read as follows:

- (1) "Dealer," any person who receives machinery from a manufacturer under a dealership contract and who offers and sells the machinery to the general public. The term, dealer, does not include a single-line dealer or any person with an annual gross sales of one hundred million dollars or more of industrial and construction equipment, and any replacement parts and service related to the equipment, from any one manufacturer or supplier of such equipment;

"

Moved by: Olson (Russell)  
Second by: Garnos  
Action: Prevailed by voice vote.

MOTION: DO PASS HB 1108 AS AMENDED

Moved by: Olson (Russell)  
Second by: Frerichs  
Action: Was not acted on.

MOTION: SUBSTITUTE MOTION DEFER HB 1108 TO THE 41<sup>ST</sup> LEGISLATIVE DAY

Moved by: Johnston  
Second by: Cutler  
Action: Prevailed by roll call vote. (6-3-0-0)

Voting Yes: Adelstein, Cutler, Garnos, Gray, Johnston, Tieszen

Voting No: Frerichs, Olson (Russell), Rhoden

HB 1113: affect medical services.

Presented by: Senator Bob Gray

MOTION: DEFER HB 1113 TO THE 41<sup>ST</sup> LEGISLATIVE DAY

Moved by: Olson (Russell)  
Second by: Garnos  
Action: Prevailed by roll call vote. (9-0-0-0)

Voting Yes: Adelstein, Cutler, Frerichs, Garnos, Gray, Johnston, Tieszen, Olson (Russell), Rhoden

MOTION: ADJOURN

Moved by: Cutler  
Second by: Garnos  
Action: Prevailed by voice vote.

Cheri Hauschild  
Committee Secretary

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Larry Rhoden, Chair